

Message Text

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FM AMEMBASSY LAGOS

TO SECSTATE WASHDC 852

C O N F I D E N T I A L LAGOS 4949

E.O. 11652: GDS

TAGS: ENRG, BBAK, BDIS, NI

SUBJECT: CRUTCHER RESOURCES COMPENSATION CLAIM

REF: STATE 89342

1. PETROLOFF DISCUSSED CRUTCHER/CUADALOUPE (C/G) CLAIM WITH PETER THOMAS, YOUNG ATTORNEY WHO REPRESENTS SEVERAL OIL INDUSTRY FIRMS (OCCIDENTAL, JAPAN PETROLEUM, DRESSER, ARCO, WILLIAMS INTERNATIONAL). DECISION TO SEE THOMAS BASED ON CONVICTION THAT REQUEST BY AMBASSADOR OR OTHER EMBOFFS TO DISCUSS CASE WITH ATTORNEY-GENERAL OR OTHER FMG OFFICIALS MIGHT BACKFIRE IF THOSE OFFICIALS CONSIDERED CASE EMBARRASSING AND RESENTED USG INTRUSION. MOREOVER, DISCREET INQUIRY BY NIGERIAN FAMILIAR WITH BOTH OIL INDUSTRY AND FMG LEGAL STRUCTURE LIKELY PRODUCE BETTER RESULTS.

2. THOMAS FAMILIAR WITH C/G LPG PROJECT AND PERSONNEL BECAUSE BOTH HE AND PARTNER FORMERLY EMPLOYED BY AMACHREE. THOMAS MADE FOLLOWING INITIAL OBSERVATIONS:

A) C/G'S CASE WITH MINISTRY OF MINES AND POWER (MMP), NOW PETROLEUM RESOURCES (MPR), WEAKENED BY FACT THAT MANY MMP OFFICIALS HAD ALWAYS BEEN CONVINCED LPG FACILITY ALONE WAS NOT ECONOMICALLY VIABLE AND WOULD WASTE MOST OF NATURAL GAS.

B) STRONG DOUBTS EXISTED IN MMP THAT C/G COULD ACTUALLY HAVE COME UP WITH CASH AND LOAN FINANCING C/G COMMITTED
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TO PROVIDING (SEE ITEMS 3 AND 4 UNDER ARTICLE VI OF TERMS OF AGREEMENT). C/G MIGHT ITSELF HAVE BEEN IN BREACH OF CONTRACT IF FMG HADN'T TERMINATED AGREEMENT FIRST.

C) C/G'S CLAIM FOR OVER DOLLARS 24 MILLION IN FOREGONE FUTURE PROFITS SO UNREALISTIC THAT IT ALIENATED MMP OFFICIALS AND SERIOUSLY AFFECTED CHANCES FOR QUICK SETTLEMENT OF GENUINE COSTS.

D) WHATEVER WEAKNESSES C/G'S CASE MAY HAVE HAD, AMACHREE, DESPITE REPUTATION AS TOP POWER BROKER AND MIDDLEMAN, WAS UNABLE ACHIEVE RESOLUTION OF PROBLEMS AT LEAST IN PART BECAUSE HE HAD NO ACCESS TO REAL DECISION MAKERS. DOCUMENTS PROVIDED BY C/G REFLECT AMACHREE'S INABILITY TO SEE EITHER PERMSEC ASIODU OR COMMISSIONER MONGUNO, LET ALONE HEAD OF STATE GOWON OR HIS SUCCESSORS.

E) AMACHREESUSED ONLY CONNECTION HE HAD, ATTORNEY-GENERAL, NOT BECAUSE A-G WAS PROPER CHANNEL (ALTHOUGH SUITS AGAINST FMG WOULD BE PRESSED THROUGH A-G), BUT BECAUSE HE WAS RELATED TO A-G. HOWEVER, BY DOING SO AMACHREE MISLED C/G. A-G CANNOT MAKE DECISION WHETHER OR NOT FMG WILL COMPENSATE A COMPANY. SUCH DECISION RESTS WITH MINISTRY INVOLVED, FEDERAL EXECUTIVE COUNCIL (FEC) AND SUPREME MILITARY COUNCIL (SMC). A-G'S ROLE ONLY TO ADVISE WHETHER DECISION TAKEN IS CONSISTENT WITH NIGERIAN LAW.

F) SIGNIFICANTLY, RESPONSES FROM A-G BECAME MORE EVASIVE AS AMACHREE BEGAN PRESS HARDER, CULMINATING IN APRIL 23, 1976 LETTER FROM PRINCIPAL STATE COUNSEL KEAZOR WHICH ADMONISHED AMACHREE THAT, WHILE A-G HAS DUTY TO ADVISE FMG, FMG NOT OBLIGED TO ACCEPT HIS ADVICE. THOMAS INTERPRETED THIS AS TACTFUL BUT CLEAR SIGNAL THAT A-G REJECTING AMACHREE'S INSISTENCE THAT A-G HAD COMMITTED FMG TO SETTLE WITH C/G.

3. THOMAS ABLE TO INQUIRE ABOUT STATUS OF C/G OVER WEEKEND AT PARTY HOSTED BY HOUSING AND URBAN DEVELOPMENT COMMISSIONER MUKTAR MUHAMMED AT WHICH MPR COMMISSIONER BUHARI AND ASSISTANT DIRECTOR PETROLEUM RESOURCES OKANALA WERE GUESTS. (THOMAS SAID BUHARI AND MUHAMMED ARE PART OF TIGHT, CLOSED CIRCLE
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OF YOUNG HAUSA LEADERS WHICH INCLUDES CHIEF OF STAFF YAR ADUA.) OKANLA CONFIRMED TO THOMAS THAT MPR WAS PUT OFF BY EXAGGERATED CLAIM FOR LOST PROFITS AND HAS NOT INTENTION OF SETTling ON THAT BASIS. THOMAS BELIEVES THAT MOST C/G CAN EXPECT IS REIMBURSEMENT FOR ACUTAL EXPENSES INCURRED AFTER COMPANY GOT OFFICIAL FMG GO-AHEAD ON LPG PROJECT.

4. THOMAS SAID HE THINKS BEST APPROACH WOULD BE FOR C/G OFFICIALS TO COME TO LAGOS TO DISCUSS MATTER PERSONALLY WITH MPR OFFICIALS. SUGGESTED C/G NOT CRITICIZE AMACHREE FOR APPEALING THROUGH A-G, JUST TELL HIM THAT THEY THINK IT WOULD BE GOOD IDEA, GIVEN CHANGES OF COMMISSIONER AND PERMSEC SINCE LPG PROJECT TERMINATED, TO RE-INTRODUCE SELVES AT MPR AND SEE IF PROGRESS ON CLAIM CAN BE REVIVED.

5. THOMAS AGREED WITH PETROLOFF IT WOULD BE GOOD IDEA START NEGOTIATIONS AT MIDDLE LEVEL IN MPR. AKPIEYI MAY NO LONGER BE INVOLVED AS HE NOW IN CHARGE OF MAKETING DIVISION. S.M. AKPE IS OFFICIAL IN CHARGE OF LNG PROJECTS, MAY BE

APPROPRIATE SUBSTANTIVE OFFICER, BUT MAY BE TIED UP WITH PIPELINE, STORAGE DEPOT, AND LNG CONTRACT TALKS. OKANLA, IN SPITE OF REPUTATION AS HARD-LINER, MIGHT BE GOOD CHOICE WITH WHOM TO REQUEST APPOINTMENT SINCE HE SEEMS TO BE LEADOFF MAN IN ALL NEGOTIATIONS WITH OIL COMPANIES ON ECONOMIC MATTERS. THIS WOULD PROVIDE LEEWAY FOR APPEAL TO DIRECTOR OF PETROLEUM RESOURCES MARINHO ON ISSUES THAT CANNOT BE RESOLVED AT LOWER LEVEL. PERMSEC AWONIYI SELDOM, AND COMMISSIONER BUHARI NEVER, GET INVOLVED IN ACTUAL NEGOTIATIONS SUCH AS THIS, ALTHOUGH THEY APPROVE OFFICIAL MPR POSITION, BASED ON RECOMMENDATIONS FROM WORKING LEVELS. OF MPR, FOR FINAL DECISION BY FEC.

6. COMMENT: THOMAS'S OBSERVATIONS PROVIDE USEFUL LESSON ON HOW THINGS GET DONE, OR NOT DONE, IN NIGERIA. BELIEVE HIS SUGGESTIONS WELL TAKEN. THOMAS APPEARED TAKE BALANCED VIEW, EXPRESSED SYMPATHY FOR C/G AND SAID HE FELT THEY HAD BEEN USED AND BEEN GIVEN BAD DEAL AT SAME TIME AS HE POINTED CONFIDENTIAL

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OUT WHAT HE FELT WERE WEAK POINTS IN THEIR CASE. WHILE FINDING FAULT WITH AMACHREE'S APPROACH, THOMAS APPEARED BEAR NO PERSONAL MALICE AGAINST AMACHREE AND IN FACT EMPHASIZED THAT HE WISHED TO BE CAREFUL NO TO PROVOKE ANY HOSTILITY AMACHREE MIGHT FEEL FOR THAMS' HAVING LEFT HIS EMPLOY. THOMAS HAS PREVIOUSLY EXPRESSED HIS GENERAL CONVICTION THAT MANY OF OLDER ESTABLISHED ENTREPRENEURS LIKE AMACHREE HAVE LITTLE INFLUENCE WITH NIGERIA'S NEW GENERATION OF YOUNG MAINLY NORTHERN LEADERS. EASUM

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